



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York  
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May 3, 2012

**By ECF & Hand Delivery**

Honorable Allyne R. Ross  
Senior United States District Judge  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Corey Davis v. U.S. Department of Homeland Security et al.*  
No. 11-cv-203 (ARR) (RLM)

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Dear Judge Ross:

This Office represents defendants, U.S. Department of Homeland Security, Transportation Security Administration, U.S. Department of Justice, Federal Bureau of Prisons, Federal Bureau of Investigation ("FBI"), and the Federal Aviation Administration (collectively, "Defendants"), in the above-referenced Freedom of Information Act ("FOIA") action brought by *pro se* prisoner-plaintiff Corey Davis ("Plaintiff"). This letter is written in response to Plaintiff's requests for a conference to address the FBI's rolling release of documents responsive to Plaintiff's FOIA requests. ECF Nos. 40, 43.

As the Court may recall, the FBI has located over 16,000 potentially responsive pages of documents and 15 compact discs in connection with Plaintiff's FOIA requests to the FBI. *See* ECF Nos. 32, 36. On November 25, 2011, the FBI sent plaintiff a letter detailing the contents of four potentially responsive files that contain such documents and setting forth payment options for reproduction costs. Thereafter, Defendants advised the Court that:

Given the sheer volume of potentially responsive information, and the likelihood that documents will require redactions pursuant to FOIA exemptions, any response likely will be provided on a rolling basis. Following release, the FBI will require additional time to prepare any necessary *Vaughn* index and declaration in support of its anticipated summary judgment motion.

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ECF No. 32, at 2; *see Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973); *see also* 5 U.S.C. § 552(b) (enumerating exemptions to the FOIA).

To date, the FBI has made three productions of documents to Plaintiff. As Plaintiff points out, many of those documents have been produced in redacted form, pursuant to applicable FOIA exemptions. Plaintiff claims that these redactions have been “inappropriately” applied, and he therefore seeks a conference to address the FBI’s redactions. ECF No. 43.

Plaintiff’s request for a Court conference to review the FBI’s productions and redactions should be denied. It would be highly impractical for the Court to hold a conference each time Plaintiff voices dissatisfaction with the FBI’s rolling production. Instead, Plaintiff should reserve his objections until the production is complete and then seek judicial intervention if necessary. Upon completion of its rolling production and when it moves for summary judgment, the FBI will act in accordance with its FOIA obligations and submit a declaration that sufficiently describes the material withheld in “reasonable detail” and explains why such material falls within applicable FOIA exemptions. *See Judicial Watch, Inc. v. United States Postal Serv.*, 297 F. Supp. 2d 252, 256 (D.D.C. 2004) (an “agency may meet this burden by submitting affidavits or declarations that describe the withheld material in reasonable detail and explain why it falls within the claimed FOIA exemptions.”); *see also Halpern v. FBI*, 181 F.3d 279, 291 (2d Cir. 1999) (observing that “a number of courts, including our own, have eschewed rigid adherence to any particular indexing format under the *Vaughn* standard, opting instead for a functional approach.”).

Accordingly, the Court should deny Plaintiff’s request to hold a conference at this stage in the litigation. We thank the Court for its time and attention to this matter.

Respectfully submitted,

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